

MONTANA LEGISLATIVE HISTORY

Chapter 354 19 97

Bill H _____ S 368 Original bill & history ☒ C

H. Committee on Business + Labor

Hearing Date(s) 3/27 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 2/18 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes ☒ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/20	FISCAL NOTE PRINTED		
2/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED AS AMENDED	45	5
2/26	3RD READING PASSED	43	7
	TRANSMITTED TO HOUSE		
3/03	FIRST READING		
3/03	REFERRED TO STATE ADMINISTRATION		
3/11	HEARING		
3/27	TABLED IN COMMITTEE		
4/16	TAKEN FROM COMMITTEE & PLACED ON 2ND READING		
4/19	2ND READING CONCURRED AS AMENDED	83	15
4/19	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING.		
4/19	3RD READING CONCURRED	82	14
	RETURNED TO SENATE WITH AMENDMENTS		
4/21	ON MOTION RULES SUSPENDED TO ACCEPT BILL FROM HOUSE AFTER RETURN DEADLINE	46	3
4/21	2ND READING AMENDMENTS NOT CONCURRED	34	14
4/21	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE DISSOLVED		
4/23	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	FREE CONFERENCE COMMITTEE DISSOLVED		
4/23	MOTION FAILED TO RECONSIDER REJECTION OF HOUSE AMENDMENTS	19	31
	HOUSE		
4/21	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE DISSOLVED		
4/23	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	REQUESTED SENATE TO RETURN BILL		
	SENATE		
4/23	MOTION CARRIED TO ACCEDE TO HOUSE REQUEST TO RETURN BILL TO HOUSE	27	20
	HOUSE		
4/23	MOTION FAILED TO SUSPEND RULES TO RECONSIDER BILL	45	50
	DIED IN PROCESS		

SB 368 INTRODUCED BY LYNCH

LC1041 DRAFTER: MACMASTER

REGULATE BUSINESS PRACTICES RELATING TO THE SALE AND IMPORTATION OF VIDEO GAMBLING MACHINES

2/13	REFERRED		
2/14	FISCAL NOTE REQUESTED		
2/14	INTRODUCED		
2/15	FIRST READING		
2/18	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/22	2ND READING PASSED	50	0
2/24	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/25	REVISED FISCAL NOTE REQUESTED		
2/25	REVISED FISCAL NOTE RECEIVED		
2/25	REVISED FISCAL NOTE PRINTED		
3/03	FIRST READING		
3/03	REFERRED TO BUSINESS & LABOR		
3/27	HEARING		

3/27	HEARING		
4/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED AS AMENDED MOTION		
	FAILED	45	54
4/04	SEGREGATED FROM COMMITTEE OF WHOLE REPORT		
4/07	2ND READING CONCURRED AS AMENDED	65	35
4/07	3RD READING CONCURRED	66	34
	RETURNED TO SENATE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED	50	0
4/12	3RD READING CONCURRED AS AMENDED	48	0
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 354		
	EFFECTIVE DATE: 04/22/97—SECTIONS 1 & 5		
	EFFECTIVE DATE: 07/01/97—SECTIONS 2-4		

SB 369 INTRODUCED BY SWYSGOOD

LC1339 DRAFTER: LANE

REVISE THE LAW RELATING TO ENDANGERING THE WELFARE OF CHILDREN

2/14	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO JUDICIARY		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/22	2ND READING PASSED	50	0
2/24	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/03	FIRST READING		
3/03	REFERRED TO JUDICIARY		
3/24	HEARING		
4/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	97	3
4/05	3RD READING CONCURRED	99	1
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	50	0
4/10	3RD READING CONCURRED AS AMENDED	49	1
4/15	SIGNED BY PRESIDENT		
4/16	SIGNED BY SPEAKER		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 333		
	EFFECTIVE DATE: 10/01/97		

SB 370 INTRODUCED BY THOMAS, ET AL.

LC0685 DRAFTER: MCCLURE

CLARIFY THE PROVISIONS RELATING TO ARCHITECTURAL SERVICES TO ALLOW A SCHOOL DISTRICT TO DETERMINE WHETHER ARCHITECTURAL SERVICES ARE NECESSARY FOR THE BUILDING, FURNISHING, REPAIRING, OR COMPLETION OF OTHER WORK FOR THE BENEFIT OF THE SCHOOL DISTRICT

2/15	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/15	FISCAL NOTE REQUESTED		
2/20	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/21	HEARING		

- 350 (*Senate Bill No. 118; Crismore*) AN ACT GENERALLY REVISING THE LAWS RELATING TO PUBLIC ACCOMMODATIONS, CAMPGROUNDS, AND TRAILER COURTS; PROVIDING DEFINITIONS; CLARIFYING THAT A BED AND BREAKFAST IS A PUBLIC ACCOMMODATION; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT RULES; PROVIDING FOR EXPIRATION AND CANCELLATION OF LICENSES; AMENDING SECTIONS 50-51-102, 50-51-103, 50-51-201, 50-51-207, 50-51-212, 50-52-102, AND 50-52-203, MCA; AND PROVIDING EFFECTIVE DATES. 1645
- 351 (*Senate Bill No. 297; Brooke*) AN ACT PROVIDING FOR REPORTING OF DEATH BY SUDDEN INFANT DEATH SYNDROME; DEFINING "SUDDEN INFANT DEATH SYNDROME"; PROVIDING FOR A SUDDEN INFANT DEATH SYNDROME CAUSE OF DEATH IN CERTAIN INFANT DEATHS; AND PROVIDING AN EFFECTIVE DATE. 1649
- 352 (*Senate Bill No. 314; Crippen*) AN ACT REVISING GENERAL VENUE STATUTES; AND AMENDING SECTIONS 25-2-118 AND 25-2-122, MCA. 1649
- 353 (*Senate Bill No. 342; Brooke*) AN ACT REVISING THE BASIN CLOSURE, WATER LEASING, AND TEMPORARY CHANGE STATUTES AS THEY APPLY TO THE UPPER CLARK FORK RIVER BASIN; ALTERING THE COMPOSITION OF THE UPPER CLARK FORK BASIN STEERING COMMITTEE; AMENDING SECTIONS 85-2-337, 85-2-338, AND 85-2-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1650
- 354 (*Senate Bill No. 368; Lynch*) AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE AND IMPORTATION OF VIDEO GAMBLING MACHINES; AMENDING SECTIONS 23-5-152, 23-5-612, 23-5-614, AND 23-5-631, MCA; AND PROVIDING EFFECTIVE DATES. 1662
- 355 (*Senate Bill No. 394; Jabs*) AN ACT AUTHORIZING THE FISH, WILDLIFE, AND PARKS COMMISSION TO SEPARATE NONRESIDENT DEER LICENSES FROM THE NONRESIDENT BIG GAME COMBINATION LICENSES FOR THE PURPOSE OF DEER MANAGEMENT; ALLOWING THE COMMISSION TO SET THE FEE FOR THE NONRESIDENT ELK COMBINATION LICENSE WITHOUT A DEER TAG AND FOR THE SEPARATED NONRESIDENT DEER COMBINATION LICENSE, TO DETERMINE THE NUMBER OF LICENSES WITHIN ESTABLISHED LIMITS, AND TO SET CONDITIONS ON THE USE OF THE LICENSES; AMENDING SECTIONS 87-1-301 AND 87-2-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1666
- 356 (*House Bill No. 251; Holland*) AN ACT PROVIDING THAT IN CIVIL ACTIONS, THE COURT MAY ASSESS THE REASONABLE PUBLIC EXPENSES OF IMPANELING THE JURY IF THE COURT OR THE JURY DETERMINES THE CASE OF A PARTY TO BE FRIVOLOUS OR MAINTAINED FOR PURPOSES OF HARASSMENT; AND AMENDING SECTION 3-15-205, MCA. 1670
- 357 (*House Bill No. 281; Ryan*) AN ACT APPROPRIATING TO THE DEPARTMENT OF LABOR AND INDUSTRY \$140,000 FOR FISCAL YEARS 1998 AND 1999 FROM THE FUND BALANCE OF THE STATE SPECIAL REVENUE ACCOUNT ESTABLISHED FOR THE DEPOSIT OF FEES COLLECTED BY THE DEPARTMENT OF COMMERCE FROM PERMIT FEES FOR THE ENFORCEMENT OF THE STATE PLUMBING CODE, FROM INSPECTION FEES FOR THE

INTRODUCED BY Lynch Senate BILL NO. 368

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE, IMPORTATION, AND REPLACEMENT OF VIDEO GAMBLING MACHINES; AMENDING SECTIONS 23-5-612, 23-5-614, AND 23-5-631, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-5-612, MCA, is amended to read:

"23-5-612. Machine permits -- fee. (1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual permit for an approved video gambling machine.

(2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.

(b) If the person holding the gambling operator's license for the premises in which the machine is located changes during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 ~~per~~ for each machine is paid to the department, the permit remains valid for the remainder of the permit year.

(c) If a video gambling machine for which a permit has been obtained is replaced by another machine, a new permit is not needed for the replacement machine and the permit for the replaced machine transfers to the replacement machine for the remainder of the term of the permit. The department may charge the permittee a fee equal to the cost of implementing the transfer of the permit.

(3) The department shall retain 50% of the total permit fee collected under subsection (2)(a) and 100% of the machine transfer processing fee collected under ~~subsection~~ subsections (2)(b) and (2)(c) for purposes of administering this part. The balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in

1 17-7-502, for deposit in the local government treasury."

2
3 **Section 2.** Section 23-5-614, MCA, is amended to read:

4 **"23-5-614. Sale of video gambling machines ~~by operator or lienholder~~.** (1) A licensed operator
5 is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines
6 in a calendar year if the operator:

7 (a) had obtained permits for the machines and legally operated them prior to the sale; and

8 (b) sells the machines to another licensed operator or to a licensed manufacturer, distributor,
9 route operator.

10 (2) A lienholder who acquires title to video gambling machines through a foreclosure action
11 involving a licensed manufacturer, distributor, route operator, or operator may sell the machines to
12 licensed manufacturer, distributor, route operator, or operator.

13 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
14 equipment approved by the department in any jurisdiction outside of this state in which it is legal to do so
15 under the laws of that jurisdiction. Prior to the date of the sale, the seller shall notify the department
16 of the sale and provide the department with the approval of the jurisdiction in which the machines
17 equipment will be received."

18
19 **Section 3.** Section 23-5-631, MCA, is amended to read:

20 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**
21 **-- fee.** (1) The department shall examine and may approve a new video gambling machine or associated
22 equipment or a modification to an approved machine or associated equipment that is manufactured, sold,
23 or distributed for use in the state before the video gambling machine or associated equipment is sold,
24 played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated
25 equipment into the state for research and development on behalf of a licensed manufacturer prior to
26 submission of the machine or equipment to the department for approval.

27 (2) A video gambling machine or associated equipment or a modification to an approved machine
28 or associated equipment may not be examined or approved by the department until the video gambling
29 machine manufacturer is licensed as required in 23-5-625.

30 (3) All video gambling machines or associated equipment approved by the department of commerce

prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer seeking the examination and approval of a new video gambling machine or associated equipment or a modification to an approved machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.

(6) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine or associated equipment or a modification to an approved machine or associated equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor, route operator, or operator unless the machine or equipment has been approved by the department."

NEW SECTION. **Section 4. Effective dates.** (1) [Sections 2 and 3 and this section] are effective on passage and approval.

(2) [Section 1] is effective July 1, 1997.

-END-

SENATE JUDICIARY

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- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0289	2/06	2/11	PASS AS AMENDED	VOTE:10-0	2-13	2/14		
SB0291	BROOKE, VIVIAN	2/06	2/14	ADD SEXUAL ORIENTATION TO MALICIOUS HARASSMENT LAWS	TABLED ON 02/19	VOTE: 7-3		
SB0303	WILSON, WILLIAM	2/07	2/11	ALLOW JUDGE TO REQUIRE CERTAIN OFFENDERS TO HAVE IGNITION INTERLOCK DEVICE	PASS AS AMENDED	VOTE: 8-2	2-18	2/18
SB0314	CRIPPEN, BRUCE	2/08	2/13	REVISE VENUE	DO PASS	VOTE:6-4	2-17	2/18
SB0318	BECK, TOM	2/08	2/13	DISALLOW ORAL EVIDENCE ON EQUITABLE ESTOPPEL DEFENSE RE: WRITTEN CONTRACT	TABLED ON 02/17	VOTE:9-1		
SB0321	HALLIGAN, MIKE	2/11	2/14	PROVIDE FOR A MOBILE HOME COURT MEDIATOR	PASS AS AMENDED	VOTE:7-3	2-17	2/18
SB0327	DOHERTY, STEVE	2/11	2/14	CREATE OFFENSE OF ELECTIONEERING BY PHONE ON ELECTION DAY	PASS AS AMENDED	VOTE:8-2	2-17	2/18
SB0329	HALLIGAN, MIKE	2/11	2/14	REVISE LAWS GOVERNING BUSINESS ENTITIES	PASS AS AMENDED	VOTE:10-0	2-14	2/14
SB0341	STANG, BARRY	2/12	2/17	FELONY PARTNER OR FAMILY MEMBER ASSAULT	DO PASS	VOTE:10-0	2-17	2/18
SB0368	LYNCH, J. D.	2/13	2/18	REGULATE SALE AND IMPORTATION OF VIDEO GAMBLING MACHINES	PASS AS AMENDED	VOTE: 10-0	2-18	2/18
SB0369	SWYSGOOD, CHARLES	2/15	2/18	ENDANGERING WELFARE OF CHILDREN INCL. CONTACTING CHILD AG. PARENTS' WISHES	DO PASS	VOTE:10-0	2-19	2/19
SB0374	HARGROVE, DON	2/17	2/20	REVISE CHILD SUPPORT LAWS TO COMPLY WITH FEDERAL REQUIREMENTS AND LAW	PASS AS AMENDED	VOTE:7-3	2-21 FINANCE & CLAIMS	2/22
	HARP, JOHN			GENERALLY REVISE PRIVATE SECURITIES LITIGATION LAWS				

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on February 18, 1997, at 9:06 A.M., in Senate Judiciary Room.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 368, 2/15/97
SB 369, 2/15/97
Executive Action: SB 368, SB 266, SB 303, SB 291

HEARING ON SB 368

Sponsor: SEN. J.D. LYNCH, SD 19, Butte

Proponents: David Brown, Executive Director of the Montanan
Independent Machine Operators Assoc.
Larry Aike, Montana Coin Operators Assoc

Opponents: None

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Count: 9:06}

SEN. J.D. LYNCH, SD 19, Butte, introduced SB 368. He was asked to carry this legislation on behalf of the Montana Independent Machine Operators Association. It is strictly a business bill related to the sale, research and development of video gaming machines. They had not anticipated the impact on local government with Section 1. Amendments will be introduced to delete Section 1 so that there is no impact to local government. EXHIBIT 1

Proponents' Testimony:

{Tape: 1; Side: a; Approx. Time Count: 9:07}

David Brown, Executive Director of the Montanan Independent Machine Operators Assoc., spoke in support of the bill. He presented written testimony from Dick Berg, President of MIMOA, EXHIBIT 2. He also handed out a copy of the amendments, EXHIBIT 3. The first set of amendments strike Section 1 in its entirety so there will be no impact on local governments. The second amendment on page 2, lines 13 through 17, clarifies that it is legal to sell legal machines to another legal jurisdiction. On page 2, lines 24 through 26, this language would allow a manufacturer or distributor to bring in a component program for research and development purposes. They worked with the Department of Justice on this bill and they find it acceptable. Larry Aike, Montana Coin Operators Assoc., is also a proponent of this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 9:10}

SEN. LORENTS GROSFIELD asked Wilbur Raymond, Administrative Office, Gambling Control, if they were comfortable with the bill and amendments?

Mr. Raymond stated they worked with the sponsor on the bill and do believe that the amendments make this a better bill.

SEN. GROSFIELD asked Mr. Brown if a person wanted to sell gambling machines and found an out-of-state buyer, why would that not be included in this bill?

Mr. Brown stated that originally they had language in the bill which included route operators. The Department did not want to expand it that far because that would be too broad and increase the Department's necessity to oversee that process. A route operator could sell to a distributor or manufacturer who could make the sale.

Closing by Sponsor:

SEN. LYNCH closed on SB 368.

HEARING ON SB 369

Sponsor: SEN. CHUCK SWYSGOOD, SD 17, Dillon

Proponents: Calvin Erb, Deputy Co. Attorney, Beaverhead County
Corey Laird, Montana Catholic Conference

Opponents: None

Opening Statement by Sponsor:

{Tape: 1; Side: a; Approx. Time Count: 9:14}

SEN. SWYSGOOD, SD 17, Dillon, presented SB 369. This an act revising law relating to endangering the welfare of children. This bill comes from a concern of the County Attorney's Office in his area. They wanted this bill to come under the stalking provisions of the statute because repeated misdemeanor offenses do not allow prosecution for someone who leaves the state.

Proponents' Testimony:

{Tape: 1; Side: a; Approx. Time Count: 9:16}

Calvin Erb, Deputy County Attorney, Beaverhead County, stated he wanted to amend either the stalking statute or the endangering of the welfare of children statute. The Attorney General's Office has written a letter regarding this matter. An older gentleman was writing love letters to a 12 year old girl. The parents told him not to have contact with their daughter. The daughter was infatuated with the attention she was given. They had to tell the parents there was nothing they could do. They were hoping the stalking statute would be broad enough in its definition of "victim". The parents would be the victim. The Attorney General's Office didn't feel this controlled. They could proceed against the daughter as a youth in need of supervision. The type of behavior involved here is stalking. The man was grooming the child for later contact and a more intimate relationship at a future time. This was clearly defined in the letters. However, there had been no sexual contact and no encouragement to leave home. He made statements of his love and desire to be with this young child. If the victim is under the age of 16 and the offender is three or more years older, the parents would be the victim and could give the notice to the perpetrator. The stalking statute is progressive in terms of penalty. A repeat offender could move to a different jurisdiction and with three or four misdemeanor offenses, there would be no history of him. Local residents would have no way of knowing this person was in the habit of trying to groom young children to leave their homes and engage in a more intimate relationship. As far as

grandparents having this used against them, criminal law deals with the intent of purposely and knowingly committing the crime.

Corey Laird, Montana Catholic Conference, urged support of SB 369.

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 9:23}

SEN. MIKE HALLIGAN, referring to the order of protection portion of the statute, 40-15-102, wondered if there may be a way to allow for a restraining order to be issued to a parent who wanted to protect their child. He asked if this had been considered?

Mr. Erb stated the statute was broad. This would force a private person to seek civil redress and institute an action before the state. Civil and criminal law should stay separate.

SEN. HALLIGAN stated that filing the charge would allow for a period of time for this person to continue his behavior and then he may be able to exert his control over the child. He handles a lot of family law. If a father does not like the custody arrangement, he could do everything possible to entice the child away from the custodial parent. He sees where parties could try to get criminal law involved to get the other side.

Mr. Erb stated that people often try to get their office involved in divorce and custody battles. If this law is enacted, they will evaluate and investigate. If it appears they are being invited into some such situation, they can decline to prosecute.

Closing by Sponsor:

SEN. SWYSGOOD stated he understood the concerns of parents. He presented the letters the county attorney wrote to him as well as the response they received from the Attorney General. EXHIBIT 4

EXECUTIVE ACTION ON SB 368

{Tape: 1; Side: a; Approx. Time Count: 9:29}

Amendments: sb036801.ajm - EXHIBIT 5

Motion/Vote: SEN. SHARON ESTRADA MOVED TO AMEND SB 368. The MOTION CARRIED UNANIMOUSLY.

Motion: SEN. ESTRADA MOVED SB 368 DO PASS AS AMENDED.

Discussion: SEN. GROSFIELD commented that he visited with a couple of proponents during the break and it turns out that a lot of route operators do have a distributors license.

Vote: The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 266

Amendments: sb026606.av1 - EXHIBIT 6

Discussion: Ms. Lane asked Jackie Lenmark to explain her amendments. She reminded the committee that these were the sixth set of amendments on this bill. Three were submitted by Ms. Lenmark in the alternative, one set came from the Trial Lawyers and one from Jerry Driscoll.

Ms. Lenmark stated she was also speaking on behalf of HIAA, Blue Cross/Blue Shield, NAIL, State Farm, the Alliance of American Insurers and Montana Medical Benefits Plan. There have been meetings between the insurers, independent agents and the Insurance Commissioners Office. They have not reached consensus. The amendments are endorsed by the insurers. Subrogation is difficult for lay persons as well as lawyers. When there is a loss and an insurance company pays for that loss, the insurance company through the theory of subrogation will pursue the wrongdoer. That is the theory of subrogation. The amendments create and correlate a subrogation right for three kinds of insurance: property and casualty insurance for which there has been no statutory right, disability or health insurance for which there has been a subrogation right, and health service corporations for which there has been a statutory right.

Amendment no. 5 corrects a codification in the original bill draft. Section 3 of the original bill needs to appear in all three chapters. Amendments 2, 3, and 4, make the rights of each type of insurance the same. No particular line of insurance has a greater subrogation right than another. If you have several lines of insurance involved in an accident, it is important to get money to the injured person quickly. The injured person's med pay would pay immediately. The health insurance company would start paying medical bills. Once there has been a determination of liability, the casualty company would compensate the injured person. Without the right of subrogation, the health insurance or med pay insurance may be reluctant to pay immediately because they have no opportunity to recover those funds from the tortfeasor, the liable party's insurance company. They inserted the language on arbitration so that if there is a dispute amongst insurers and an insured about the extent of recovery, the injured person will have recovery and the person who is truly liable will be responsible for payment.

Motion: SEN. RIC HOLDEN MOVED TO AMEND SB 266.

Discussion: SEN. STEVE DOHERTY asked for comment from the independent insurance agents and the trial lawyers.

Russell Hill, MTLA, stated the amendments do not solve the problems in Section 1 and 2 but, in fact, extend those problems.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on March 27, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 368; SB 379; SB 89
Executive Action: None

HEARING ON 368

Opening Statement by Sponsor: Sen. Lynch, S. D. 19 introduced SB 368. EXHIBIT 1.

{Tape: 1; Side: 1; Approx. Time Count: .04; Comments: None.}

Proponents' Testimony:

Dave Brown, MT Independent Machine Operators. EXHIBIT 2.

{Tape: 1; Side: 1; Approx. Time Count: 1.8; Comments: None.}

Larry Akey, Coin Machine Operators. EXHIBIT 3.

{Tape: 1; Side: 1; Approx. Time Count: 5.0; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: 1; Approx. Time Count: 5.1; Comments: None.}

Closing by Sponsor: Sen, Lynch closed. Rep. Devaney to carry.

{Tape: 1; Side: 1; Approx. Time Count: 5.9; Comments: None.}

HEARING ON SB 379

Opening Statement by Sponsor: Sen. Lynch, S. D. 19 introduced the bill.

{Tape: 1; Side: 1; Approx. Time Count: 6.2; Comments: None.}

Proponents' Testimony:

Jerry Lindorf, MT Consumers Finance Assn.

{Tape: 1; Side: 1; Approx. Time Count: 7.0; Comments: None.}

Don Hutchinson, Commissioner of Banking. EXHIBIT 4.

{Tape: 1; Side: 1; Approx. Time Count: 9.0; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor : Senator Lynch closed.

{Tape: 1; Side: 1; Approx. Time Count: 11.3; Comments: None.}

HEARING ON SB 89

Opening Statement by Sponsor: Senator Beck, S D 28 introduced SB 89.

{Tape: 1; Side: 1; Approx. Time Count: 15.0; Comments: None.}